

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Crim. Action No. 2:09CR6
(BAILEY)**

SILVESTRE BRAVO CUEVAS,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION / OPINION
AND SETTING SENTENCING HEARING**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of Magistrate Judge James E. Seibert. On July 23, 2009, Magistrate Judge Seibert held a change of plea hearing. Following that hearing, the magistrate judge issued his proposed report and recommended disposition [Doc. 32]. In the R&R, the magistrate judge recommends that the defendant’s plea of guilty to the felony charge contained in Count One of the Indictment be accepted, that the defendant be adjudged guilty and that sentence be imposed accordingly.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, failure to file objections to the magistrate judge’s proposed findings and recommendation permits the district court to review under the standards that the district

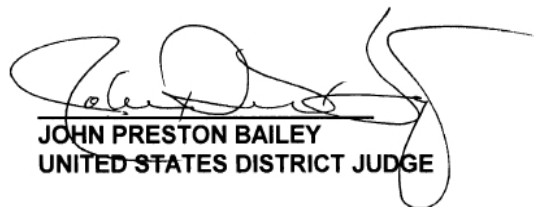
court believes are appropriate and, under these circumstances, the parties' right to *de novo* review is waived. See **Webb v. Califano**, 468 F. Supp. 825 (E.D. Cal. 1979). Accordingly, this Court will conduct a *de novo* review only as to the portions of the report and recommendation to which the petitioner objected. The remaining portions of the report and recommendation will be reviewed for clear error. This Court notes that the time by which to file objections has expired, and the defendant has indicated that he does not intend to file any. Rather, the defendant moves this Court to set this matter for sentencing as soon as possible.

As a result, for the foregoing reasons, and those more fully contained in the Magistrate Judge's Report, it is the opinion of this Court that the Magistrate Judge's Report and Recommendation/Opinion **[Doc. 32]** should be, and is, **ORDERED ADOPTED**. As such, this Court will accept the defendant's plea of guilty to Count One of the Indictment. Accordingly, this Court will **GRANT** the Motion to Schedule Sentencing Hearing **[Doc. 34]**, and sentencing as to Silvestre Bravo Cuevas is now set for September 9, 2009, at 12:30 p.m., in Elkins, West Virginia, before Judge John Preston Bailey.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to mail a copy to the *pro se* petitioner.

DATED: August 26, 2009.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE